

may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.

(R.S. §355; June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Pub. L. 91-393, §1, Sept. 1, 1970, 84 Stat. 835.)

#### CODIFICATION

R.S. §355 derived from Res. Sept. 11, 1841, No. 6, 5 Stat. 468.

The first four and sixth paragraphs of this section are based on R.S. §355, as amended. The fifth paragraph of this section is based on the last paragraph of section 1 of Pub. L. 91-393. For amendment of this section by the remainder of section 1 of Pub. L. 91-393, see 1970 Amendment note below.

#### AMENDMENTS

1970—Pub. L. 91-393 substituted first four paragraphs of this section, requiring the Attorney General to give written approval of the sufficiency of title prior to the purchase of lands or interests therein, empowering the Attorney General to delegate his responsibilities, authorizing Federal departments and agencies which have been delegated the responsibility to approve land titles to request opinions, advice or assistance of the Attorney General, and permitting the payment from appropriations of the expenses of procuring certificates or other evidences of title, for the former first seven paragraphs of this section which prohibited expenditures of public money upon any site or land purchased by the United States until the Attorney General gave his written opinion in favor of the validity of title, permitted acceptance of title subject to infirmities if the Attorney General approved, authorized the Attorney General to approve title to easements or rights-of-way, and which made certain exceptions from the provisions of this section.

1940—Act Oct. 9, 1940, among other changes, divided section into paragraphs, struck out provision requiring United States attorneys, upon application of Attorney General, to furnish assistance in relation to titles, and inserted provisions contained in second, third, fourth and seventh paragraphs.

Act Feb. 1, 1940, struck out provision requiring consent of State legislature to the purchase, and inserted provisions now set out as eighth paragraph.

1930—Act June 28, 1930, inserted reference to armories, arsenals, forts, fortifications, navy yards and light-houses, and provision that the Attorney General may base his opinion as to title upon certificate of title of a title company.

#### CROSS REFERENCES

Erection of public buildings on condemned property authorized though Attorney General has not approved title, see section 258e of this title.

Power of United States to acquire land within the States, see Const. Art. 1, §8, cl. 17.

President authorized to procure consent of State within which any land has been purchased for forts, magazines, etc., see section 103 of Title 4, Flag and Seal, Seat of Government, and the States.

Purchase contract agreements, applicability of section to, see section 356 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 356 of this title; title 7 section 2250a; title 10 sections 2852, 18239; title 16 sections 343b, 430a, 441i, 571c; title 22 section 1471; title 36 section 138b; title 38 section 115; title 42 sections 1502, 1594a, 2224, 5196; title 50 App. section 460.

#### § 256. Repealed. Pub. L. 91-393, § 2, Sept. 1, 1970, 84 Stat. 835

Section, acts Mar. 2, 1889, ch. 411, 25 Stat. 941; Sept. 22, 1961, Pub. L. 87-277, 75 Stat. 577, directed that all legal services connected with procurement of titles to site for public buildings shall be rendered by United States attorneys.

#### § 257. Condemnation of realty for sites and other uses

In every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this section and section 258<sup>1</sup> of this title, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice.

(Aug. 1, 1888, ch. 728, §1, 25 Stat. 357; June 25, 1948, ch. 646, §6, 62 Stat. 986.)

#### REFERENCES IN TEXT

Section 258 of this title, referred to in text, has been omitted from the Code.

#### AMENDMENTS

1948—Act June 25, 1948, struck out jurisdictional and venue provisions. See sections 1358 and 1403 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

#### FEDERAL RULES OF CIVIL PROCEDURE

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix, Judiciary and Judicial Procedure.

#### CROSS REFERENCES

##### Acquisition of land—

District of Columbia, see section 16-1301 et seq. of the D.C. Code.

Irrigation Project, see section 421 of Title 43, Public Lands.

River and harbor improvements, see section 591 et seq. of Title 33, Navigation and Navigable Waters.

War purposes, see section 2663 of Title 10, Armed Forces.

Jurisdiction of United States district courts in condemnation proceedings, see section 1358 of Title 28, Judiciary and Judicial Procedure.

Possession and title in advance of judgment, taking of, see sections 258a to 258f of this title.

Tennessee Valley Authority, procedure in condemnation proceedings, see section 831x of Title 16, Conservation.

<sup>1</sup> See References in Text note below.

Venue in condemnation proceedings, see section 1403 of Title 28, Judiciary and Judicial Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1103; title 16 sections 81e, 159a, 231b, 242, 263, 403i, 423k, 423n, 425a, 430a, 430k, 430u, 430nn, 433c, 433h, 447b, 449, 450m, 450p, 459a; title 25 sections 500a, 941j, 1724, 1754; title 42 sections 1532, 2222; title 43 section 1522.

#### § 258. Omitted

#### CODIFICATION

Section, acts Aug. 1, 1888, ch. 728, § 2, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167, which in connection with condemnation proceedings, required conformity, as near as might be, to state practice and pleading, has been superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

#### § 258a. Lands, easements, or rights of way for public use; taking of possession and title in advance of final judgment; authority; procedure

In any proceeding in any court of the United States outside of the District of Columbia which has been or may be instituted by and in the name of and under the authority of the United States for the acquisition of any land or easement or right of way in land for the public use, the petitioner may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the lands described in the petition, declaring that said lands are thereby taken for the use of the United States. Said declaration of taking shall contain or have annexed thereto—

- (1) A statement of the authority under which and the public use for which said lands are taken.
- (2) A description of the lands taken sufficient for the identification thereof.
- (3) A statement of the estate or interest in said lands taken for said public use.
- (4) A plan showing the lands taken.
- (5) A statement of the sum of money estimated by said acquiring authority to be just compensation for the land taken.

Upon the filing said declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in said declaration, title to the said lands in fee simple absolute, or such less estate or interest therein as is specified in said declaration, shall vest in the United States of America, and said lands shall be deemed to be condemned and taken for the use of the United States, and the right to just compensation for the same shall vest in the persons entitled thereto; and said compensation shall be ascertained and awarded in said proceeding and established by judgment therein, and the said judgment shall include, as part of the just compensation awarded, interest in accordance with section 258e-1 of this title on the amount finally awarded as the value of the property as of the date of taking, from said date to the date of payment; but interest shall not be allowed on so much thereof as shall have been paid into the court. No sum so paid into the court shall be charged with commissions or poundage.

Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceeding. If the compensation finally awarded in respect of said lands, or any parcel thereof, shall exceed the amount of the money so received by any person entitled, the court shall enter judgment against the United States for the amount of the deficiency.

Upon the filing of a declaration of taking, the court shall have power to fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the petitioner. The court shall have power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.

(Feb. 26, 1931, ch. 307, § 1, 46 Stat. 1421; Pub. L. 99-656, § 1(1), Nov. 14, 1986, 100 Stat. 3668.)

#### AMENDMENTS

1986—Pub. L. 99-656 substituted “interest in accordance with section 258e-1 of this title” for “interest at the rate of 6 per centum per annum” in second par.

#### SHORT TITLE

Act Feb. 26, 1931, ch. 307, 46 Stat. 1421, as amended, which is classified to section 258a et seq. of this title, is popularly known as the “Declaration of Taking Act”.

#### FEDERAL RULES OF CIVIL PROCEDURE

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix, Judiciary and Judicial Procedure. Section as not affected by that rule, see note of the Advisory Committee set out thereunder.

#### CROSS REFERENCES

Condemnation of property, right of Government officers, see section 257 of this title.

District of Columbia, eminent domain, see, section 16-1301 et seq. of the District of Columbia Code.

Jurisdiction and venue in condemnation cases, see sections 1358 and 1403 of Title 28, Judiciary and Judicial Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 258b, 258c, 258d, 258e-1 of this title; title 10 section 7422; title 16 sections 79c, 831c; title 25 sections 500a, 941j, 1724, 1754; title 33 section 598; title 39 section 410; title 42 sections 1502, 1592d, 1594a, 2222, 4651; title 43 section 1522.

#### § 258b. Taking in advance of final judgment; appeal or giving of bond as preventing or delaying vesting of title

No appeal in any cause under section 258a of this title nor any bond or undertaking given therein shall operate to prevent or delay the vesting of title to such lands in the United States.

(Feb. 26, 1931, ch. 307, § 2, 46 Stat. 1422.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 258e-1 of this title; title 10 section 7422; title 16 section 831c; title 25 section 500a; title 33 section 598; title 39 section 410; title 42 sections 1502, 1594a, 2222.

#### § 258c. Obligation of United States to pay ultimate award when fixed

Action under section 258a of this title irrevocably committing the United States to the